

109TH CONGRESS
2D SESSION

H. R. 5709

To amend the Elementary and Secondary Education Act of 1965, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2006

Mr. YOUNG of Alaska introduced the following bill; which was referred to the
Committee on Education and the Workforce

A BILL

To amend the Elementary and Secondary Education Act
of 1965, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “No Child Left Behind Improvements Act of 2006”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—MEASURING ADEQUATE YEARLY PROGRESS

Sec. 101. Measuring adequate yearly progress of groups.

- Sec. 102. Intermediate goals need not increase in equal increments for all groups.
- Sec. 103. Alternative approaches to measuring adequate yearly progress.
- Sec. 104. Participation of students in assessments.
- Sec. 105. Students with disabilities requiring alternate assessments.
- Sec. 106. Assessments.
- Sec. 107. Regulations.

TITLE II—STATE FLEXIBILITY

- Sec. 201. State flexibility.

TITLE III—IMPLEMENTATION OF SANCTIONS

- Sec. 301. School improvement and public school choice.
- Sec. 302. School district improvement.
- Sec. 303. Supplemental services.
- Sec. 304. Full implementation.

TITLE IV—NON-PUBLIC SCHOOLS

- Sec. 401. Participation of children enrolled in private schools.

TITLE V—EFFECTIVE DATE AND REGULATIONS

- Sec. 501. Effective date.
- Sec. 202. Regulations.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise specifically provided, whenever in

3 this Act an amendment or repeal is expressed in terms

4 of an amendment to, or a repeal of, a section or other

5 provision, the reference shall be considered to be made to

6 a section or other provision of the Elementary and Sec-

7 ondary Education Act of 1965 (42 U.S.C. 6200 et seq.).

8 **TITLE I—MEASURING ADEQUATE**

9 **YEARLY PROGRESS**

10 **SEC. 101. MEASURING ADEQUATE YEARLY PROGRESS OF**

11 **GROUPS.**

12 (a) “N” SIZE MAY VARY BY SIZE OF SCHOOL OR

13 LEA.—The following provisions are each amended by in-

14 serting after “reliable information” the following: “(the

1 ‘number’ required to be ‘insufficient’ being greater, at the
 2 option of the State, for a local educational agency than
 3 for a school, and varying, at the option of the State, from
 4 agency to agency and school to school in proportion to
 5 total enrollment)’’:

6 (1) In section 1111 (20 U.S.C. 6311)—

7 (A) subsection (b)(2)(C)(v), in the matter
 8 after subclause (II)(dd);

9 (B) subsection (b)(2)(I)(ii);

10 (C) subsection (b)(3)(C)(xiii); and

11 (D) subsection (h)(C)(i).

12 (2) Section 1431(b) (20 U.S.C. 6471(b)).

13 (b) PERMITTING FEWER STUDENTS IN GROUP TO
 14 DEMONSTRATE PROGRESS TO MEET AYP “SAFE HAR-
 15 BOR”.—Section 1111 (20 U.S.C. 6311) is further amend-
 16 ed in subsection (b)(2)(I)(i) by striking “10 percent” and
 17 inserting “5 percent”.

18 (c) COUNTING STUDENTS WHO ARE IN MORE THAN
 19 ONE GROUP.—Section 1111 (20 U.S.C. 6311) is further
 20 amended in subsection (b)(2) by adding at the end the
 21 following:

22 “(L) COUNTING STUDENTS WHO ARE IN
 23 MORE THAN ONE GROUP.—For the purpose of
 24 determining adequate yearly progress, the State
 25 may establish a uniform procedure for counting

students under which a student who belongs to more than one of the groups described in subparagraph (C)(v) is counted toward each such group to which the student belongs as a fraction of 1 student, the numerator of the fraction being 1 and the denominator being the number of such groups to which the student belongs.”.

**SEC. 102. INTERMEDIATE GOALS NEED NOT INCREASE IN
EQUAL INCREMENTS FOR ALL GROUPS.**

Section 1111 (20 U.S.C. 6311) is further amended in subsection (b)(2)(H)(i)—

(1) by striking “in equal increments”; and

(2) by inserting before the semicolon at the end the following: “in—

“(aa) increments defined by the State as appropriate for the group, for each of the groups of students described in subparagraph (C)(v); and

“(bb) equal increments, for all other students.”.

**SEC. 103. ALTERNATIVE APPROACHES TO MEASURING ADE-
QUATE YEARLY PROGRESS.**

(a) EXPANSION OF AYP TO INCLUDE GAIN SCORES AND PARTIAL CREDIT FOR MEETING BASIC TARGETS.—

Section 1111 (20 U.S.C. 6311) is further amended in sub-

1 section (b)(2)(C)(vii) by inserting after “such as” the fol-
 2 lowing: “achievement under a ‘gain score’ approach (such
 3 as a value-added system), progress toward meeting basic
 4 proficiency targets,”.

5 (b) ALTERNATIVES TO AYP.—Such section is further
 6 amended in subsection (b)(2) by adding at the end the
 7 following:

8 “(M) ALTERNATE METHODS OF DEFINING
 9 ADEQUATE YEARLY PROGRESS.—In lieu of de-
 10 fining adequate yearly progress under subpara-
 11 graph (C), the State may define adequate year-
 12 ly progress in any manner that—

13 “(i) uses the measures of performance
 14 and progress described in subparagraph
 15 (A);

16 “(ii) complies with the timeline re-
 17 quired by subparagraph (F); and

18 “(iii) includes intermediate goals, as
 19 required by subparagraph (H).”.

20 **SEC. 104. PARTICIPATION OF STUDENTS IN ASSESSMENTS.**

21 (a) PERCENTAGE OF STUDENTS REQUIRED TO TAKE
 22 ASSESSMENTS.—Section 1111 (20 U.S.C. 6311) is fur-
 23 ther amended in subsection (b)(2)(I)(ii)—

24 (1) by striking “95 percent” the first place
 25 such term appears and inserting “a percentage

1 (from 90 to 95 percent, based on criteria established
2 in the State plan)”; and

3 (2) by striking “95 percent” the second place
4 such term appears and inserting “percentage”.

5 (b) DETERMINING PARTICIPATION RATES.—Section
6 1111 (20 U.S.C. 6311) is further amended in subsection
7 (b)(2) by adding at the end the following:

8 “(N) STUDENTS EXEMPT FROM PARTICI-
9 PATING IN ASSESSMENTS.—For the purpose of
10 determining compliance with the percentage re-
11 quired by subparagraph (I)(ii), the State may
12 provide for a student to be excluded from the
13 determination with respect to an assessment if
14 any of the following apply:

15 “(i) EXCUSED ABSENCE.—The stu-
16 dent did not take that assessment by rea-
17 son of—

18 “(I) a medical condition;

19 “(II) a parental decision to ex-
20 empt the student, if such a decision is
21 available under, and exercised pursu-
22 ant to, State law; or

23 “(III) a circumstance out of the
24 control of the student, school, or local

1 educational agency, such as a natural
2 disaster.

3 “(ii) CHRONIC NON-ATTENDANCE.—

4 Each of the following is true:

5 “(I) The student did not take the
6 assessment and has demonstrated an
7 unusual and chronic pattern of non-
8 attendance, as defined by the State.

9 “(II) The local educational agen-
10 cy in which the student is enrolled is
11 implementing a plan to increase par-
12 ticipation in the assessments by stu-
13 dents demonstrating such a pattern of
14 non-attendance.

15 “(O) STUDENTS ASSIGNED ‘BELOW BASIC’
16 SCORE BY DEFAULT.—For the purpose of de-
17 termining adequate yearly progress, and for the
18 purpose of determining compliance with the
19 percentage required by subparagraph (I)(ii), a
20 student who does not take an assessment and
21 who is not excluded under subparagraph (N)
22 may, if the State plan so provides, be treated
23 as having taken the assessment and having
24 achieved a score below the level described in
25 paragraph (1)(D)(ii)(III) (below basic).”.

1 **SEC. 105. STUDENTS WITH DISABILITIES REQUIRING AL-**
2 **TERNATE ASSESSMENTS.**

3 Section 1111 (20 U.S.C. 6311) is further amended
4 in subsection (b)(2) by adding at the end the following:

5 “(P) STUDENTS WITH DISABILITIES RE-
6 QUIRING ALTERNATE ASSESSMENTS.—Con-
7 sistent with subsection (n)(3), a State may im-
8 plement the amendments made to part 200 of
9 title 34, Code of Federal Regulations, on De-
10 cember 9, 2003 (68 Fed. Reg. 68698) (related
11 to achievement of students with significant cog-
12 nitive disabilities) as if such amendments—

13 “(i) permitted 3 percent of such stu-
14 dents to be counted for the purposes of de-
15 termining adequate yearly progress, except
16 that—

17 “(I) any assessment given to any
18 such student for the purposes of de-
19 termining such adequate yearly
20 progress must be required by the indi-
21 vidualized education plan of such stu-
22 dent;

23 “(II) the individualized education
24 plan must reflect the need for any
25 such alternate assessment based on
26 the evaluation of such student and the

1 services provided such student under
2 section 614 of the Individuals with
3 Disabilities Education Act (42 U.S.C.
4 1400 et seq.); and

5 “(III) the individualized edu-
6 cation plan must include written con-
7 sent from the parent of such student
8 prior to such alternate assessment
9 being administered;

10 “(ii) used the term ‘students requiring
11 alternate assessments’ in lieu of the term
12 ‘students with the most significant cog-
13 nitive disabilities’; and

14 “(iii) permitted the eligibility of such
15 students to be determined by the State
16 educational agency, except that such eligi-
17 bility shall, at a minimum, include—

18 “(I) students who are receiving
19 services pursuant to a plan required
20 under section 504 of the Rehabilita-
21 tion Act of 1973 and part 104 of title
22 34, Code of Federal Regulations;

23 “(II) students who are assessed
24 at a grade level below the grade level

1 in which they are enrolled (out of level
2 assessments); and

3 “(III) include students consid-
4 ered students with the most signifi-
5 cant cognitive disabilities, as defined
6 by the state educational agency, prior
7 to the enactment of the No Child Left
8 Behind Improvements Act of 2006.”.

9 **SEC. 106. ASSESSMENTS.**

10 Section 1111(b)(3)(C) (20 U.S.C. 6311(b)(3)(C)) is
11 amended—

12 (1) in clause (ix) by striking subclause (III) and
13 inserting the following:

14 “(III) the inclusion of limited
15 English proficient students, who—

16 “(aa) may, consistent with
17 paragraph (2)(P), be assessed, as
18 determined by the local edu-
19 cational agency, through the use
20 of an assessment which requires
21 achievement of specific gains for
22 up to three school years from the
23 first year any such student is as-
24 sessed for the purposes of this
25 subsection;

1 “(bb) may, at the option of
2 the State educational agency, be
3 assessed in the first year any
4 such student attended school in
5 the United States (not including
6 Puerto Rico);

7 “(cc) shall not be included
8 in any calculation of adequate
9 yearly progress when such stu-
10 dents are in the first year of at-
11 tending school in the United
12 States (not including Puerto
13 Rico); and

14 “(dd) shall be assessed in a
15 valid and reliable manner and
16 provided reasonable accommoda-
17 tions on assessments adminis-
18 tered to such students under this
19 paragraph, including, to the ex-
20 tent practicable, assessments in
21 the language and form most like-
22 ly to yield accurate data on what
23 such students know and can do
24 in academic content areas, until
25 such students have achieved

1 English language proficiency as
2 determined under paragraph
3 (7);”;

4 (2) in clause (xiv) by striking “and” at the end;

5 (3) by redesignating clause (xv) as clause (xvii);

6 and

7 (4) by inserting after clause (xiv) the following:

8 “(xv) at the option of the local edu-
9 cational agency, be administered multiple
10 times to any such student during the
11 school year, provided that the local edu-
12 cational agency shall determine which
13 score of any such administration be used
14 for determining adequate yearly progress;

15 “(xvi) at the option of the school dis-
16 trict, measure the achievement of a stu-
17 dent as if such student were in the grade
18 level proceeding the grade level of such
19 student, provided that—

20 “(I) if such student meets the
21 proficient level of achievement for
22 such proceeding grade level, such
23 score shall be used to determine ade-
24 quate yearly progress for such pro-
25 ceeding grade level; and

1 “(II) if such student does not
2 meet the proficient level of achieve-
3 ment for such proceeding grade level,
4 such score is not used for the pur-
5 poses of determining adequate yearly
6 progress; and”.

7 **SEC. 107. REGULATIONS.**

8 Section 1111 (20 U.S.C. 6311) is further amended
9 by adding at the end the following:

10 “(o) REGULATIONS.—

11 “(1) CODIFICATION OF REGULATIONS AFFECT-
12 ING LIMITED ENGLISH PROFICIENT CHILDREN.—

13 This part shall be implemented consistent with
14 amendments proposed to part 200 of title 34, Code
15 of Federal Regulations, on June 24, 2004 (69 Fed.
16 Reg. 35462) (relating to the assessment of limited
17 English proficient children and the inclusion of lim-
18 ited English proficient children in subgroups) as if
19 such amendments permitted students who were pre-
20 viously identified as limited English proficient to be
21 included in the group described in subsection
22 (b)(2)(C)(v)(II)(dd) for three additional years, as
23 determined by a local educational agency (based on
24 the individual needs of a child) for the purposes of
25 determining adequate yearly progress.

1 “(2) ISSUANCE OF REGULATIONS AFFECTING
2 CHILDREN WITH DISABILITIES.—The Secretary shall
3 issue regulations not later than 180 days after the
4 date of the enactment of the No Child Left Behind
5 Improvements Act of 2006 regarding the participa-
6 tion of children with disabilities under this part.
7 Such regulations shall permit a State to include, for
8 up to three years, students who were children with
9 disabilities as part of the group described under sec-
10 tion 1111(b)(2)(C)(v)(II)(cc) but who are no longer
11 identified as children with disabilities. Students with
12 disabilities may be provided an alternate assessment,
13 including an out of level assessment, if deemed ap-
14 propriate by the individual education plan team for
15 that student and included within the written indi-
16 vidual education plan for that student.”.

17 **TITLE II—STATE FLEXIBILITY**

18 **SEC. 201. STATE FLEXIBILITY.**

19 Section 1111 (20 U.S.C. 6311) is amended—

20 (1) by redesignating subsections (f) through
21 (m) as subsections (g) through (n); and

22 (2) by inserting after subsection (e) the fol-
23 lowing:

24 “(f) STATE FLEXIBILITY.—

1 “(1) PLANS.—In approving plans under sub-
2 section (e), the Secretary shall accord a State max-
3 imum flexibility to make such plans and any revi-
4 sions compatible with the accountability system of
5 such State.

6 “(2) WAIVERS.—Through the authority pro-
7 vided under part D of title IX, the Secretary may
8 grant a waiver of any statutory or regulatory re-
9 quirement of this part requested by a State edu-
10 cational agency or local educational agency.

11 “(3) NOTIFICATION.—Not later than 30 days
12 after the approval of any revisions to the plan of a
13 State, or the granting of any waivers described
14 under paragraph (2), the Secretary shall notify each
15 State educational agency of such revision or waiver
16 and, through the website of the Department of Edu-
17 cation and the Federal Register, the public. The no-
18 tification described in the preceding sentence shall
19 be in writing and include a clear and complete expla-
20 nation of such revision or wavier.

21 “(4) APPLICABILITY OF PLAN REVISIONS AND
22 WAIVERS TO OTHER AGENCIES.—A revision to a
23 plan approved under this part or a waiver issued
24 under this subsection or under part D of title IX
25 may be applied in any other State or local edu-

1 cational agency, provided the State or agency meets
 2 any requirements issued by the Secretary applicable
 3 to such revision or waiver as implemented by such
 4 State or agency.”.

5 **TITLE III—IMPLEMENTATION OF** 6 **SANCTIONS**

7 **SEC. 301. SCHOOL IMPROVEMENT AND PUBLIC SCHOOL** 8 **CHOICE.**

9 Section 1116(b) (20 U.S.C. 6316(b)) is amended—
 10 (1) in paragraph (1)(A) by inserting after “2
 11 consecutive years” the following: “(in the same sub-
 12 ject for the same group of students, as described in
 13 section 1111(b)(2)(C)(v))”;

14 (2) in paragraph (1)(E)(i)—

15 (A) by striking “In the case” and inserting
 16 “Consistent with subparagraph (G), in the
 17 case”;

18 (B) by striking “all students enrolled in
 19 the school” and inserting “students who failed
 20 to meet the proficient level of achievement on
 21 the assessments described under section
 22 1111(b)(3) and are in the group whose aca-
 23 demic performance caused the identification
 24 under this paragraph”; and

1 (C) by striking “another public school”
2 and inserting “one other public school identified
3 and”;

4 (3) in paragraph (1)(E) by adding at the end
5 the following:

6 “(iii) SPECIAL CONDITIONS.—A local
7 educational agency shall not be required to
8 implement the transfer of a student to a
9 school under this subparagraph if doing so
10 would—

11 “(I) violate a State or local law
12 or policy relating to health, safety, or
13 class size;

14 “(II) result in overcrowding, the
15 installation of mobile classrooms, con-
16 struction of classrooms, or other sig-
17 nificant capital improvements in that
18 school; or

19 “(III) be impractical due to dis-
20 tance, geographical barriers or haz-
21 ards, time of travel, or unusually high
22 cost of travel.”; and

23 (4) in paragraph (1) by adding at the end the
24 following:

1 “(G) OPTIONS.—A local educational agen-
 2 cy may offer supplemental services as described
 3 in subsection (e) in place of the option to trans-
 4 fer to one or more public schools described in
 5 subparagraph (E) for the purposes of meeting
 6 the requirements of paragraphs (5)(A),
 7 (7)(C)(i), or (8)(A)(i).”;

8 (5) in paragraph (5) by inserting after “ade-
 9 quate yearly progress” the following: “(in the same
 10 subject for the same group of students)”;

11 (6) in paragraph (7)(C) by inserting after “ade-
 12 quate yearly progress” the following: “(in the same
 13 subject for the same group of students)”;

14 (7) in paragraph (7)(C)(i)—

15 (A) by striking “all”; and

16 (B) by striking “another” and inserting
 17 “an other”;

18 (8) in paragraph (7) by amending subpara-
 19 graph (D) to read as follows:

20 “(D) DELAY.—Notwithstanding any other
 21 provision of this paragraph, the local edu-
 22 cational agency may delay, for a period not to
 23 exceed 1 year, implementation of the require-
 24 ments under paragraph (5), corrective action
 25 under this paragraph, or restructuring under

paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to—

“(i) exceptional or uncontrollable circumstances, such as a natural disaster;

“(ii) a precipitous and unforeseen decline in the financial resources of the local educational agency or school; or

“(iii) a sudden or significant increase in the number of percentage of students represented by a group described in section 1111(b)(2)(C)(v).

No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.”;

(9) in paragraph (8)(A) by inserting after “adequate yearly progress” the following: “in the same subject for the same group of students and the total number of students who did not meet or exceed the proficient level of academic achievement (who are members of a group described in section 1111(b)(2)(C)(v)) exceed 35 percent of all students enrolled in such school who took the assessment in such subject”;

(10) in paragraph (8)(A)(i)—

1 (A) by striking “all”; and

2 (B) by striking “another” and inserting
3 “an other”; and

4 (11) in paragraph (13) by striking “is no longer
5 identified” and all that follows through the period at
6 the end and inserting the following: “has made ade-
7 quate yearly progress for the group in which the
8 child is a member in the same subject for which a
9 failure to meet adequate yearly progress triggered
10 the transfer.”.

11 **SEC. 302. SCHOOL DISTRICT IMPROVEMENT.**

12 Section 1116(c)(10) (20 U.S.C. 6316(c)(10)) is
13 amended—

14 (1) in subparagraph (B) by amending clause
15 (ii) to read as follows:

16 “(ii) shall take corrective action with
17 respect to a local educational agency—

18 “(I) that fails to make adequate
19 yearly progress, as defined by the
20 State, in the same subject and aver-
21 aged across all grades and in at least
22 one grade span (as determined by the
23 State) for a group described in section
24 1111(b)(2)(C)(v) by the end of the
25 second full school year after the iden-

tification of such agency under paragraph (3); and

“(II) whose total number of students (who are members of a group described in section 1111(b)(2)(C)(v)) that did not meet or exceed the proficient level of academic achievement exceed 35 percent of all students enrolled in a school in such agency who took the assessment in such subject and averaged across all grades; and”.; and

(2) by amending subparagraph (F) to read as follows:

“(F) DELAY.—Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to—

“(i) exceptional or uncontrollable circumstances, such as a natural disaster;

1 “(ii) a precipitous and unforeseen de-
 2 cline in the financial resources of the local
 3 educational agency; or

4 “(iii) a sudden or significant increase
 5 in the number or percentage of students
 6 represented by any group described in sec-
 7 tion 1111(b)(2)(C)(v).”.

8 **SEC. 303. SUPPLEMENTAL SERVICES.**

9 Section 1116(e) (20 U.S.C. 6316(e)) is amended—
 10 (1) in paragraph (4)—

11 (A) in subparagraph (B), by inserting after
 12 “objective criteria” the following: “(developed
 13 through continuous consultation with local edu-
 14 cational agencies in the State)”;

15 (B) in subparagraph (D) by striking “and”
 16 at the end;

17 (C) in subparagraph (E) by striking the
 18 period at the end and inserting “; and”; and

19 (D) by adding at the end the following:

20 “(F) Develop procedures by which a local
 21 educational agency may—

22 “(i) present complaints and docu-
 23 mentation of such complaints to the State
 24 educational agency regarding the qualifica-
 25 tions, operation, and evaluation of ap-

1 proved providers and potential providers
2 seeking such approval; and

3 “(ii) demonstrate to the State edu-
4 cational agency that any provider should
5 not be authorized to provide supplemental
6 services, as described in this subsection to
7 any school or schools under the jurisdiction
8 of that local education agency.”;

9 (2) by redesignating paragraph (12) as para-
10 graph (13); and

11 (3) by inserting after paragraph (11) the fol-
12 lowing:

13 “(12) LOCAL EDUCATIONAL AGENCIES AS PRO-
14 VIDERS.—Nothing in this section prohibits a local
15 educational agency that has failed to make adequate
16 yearly progress or is in improvement, corrective ac-
17 tion, or restructuring status pursuant to subsection
18 (c) from providing supplemental services, solely due
19 to such failure. In developing and applying objective
20 criteria under paragraph (4)(B) and withdrawing
21 approval for providers under paragraph (4)(D), a
22 State educational agency may not consider whether
23 a local educational agency made adequate yearly
24 progress or its status under subsection (c).”.

1 **SEC. 304. FULL IMPLEMENTATION.**

2 Section 1116 (20 U.S.C. 6316) is amended by adding
3 at the end the following:

4 “(i) **CONDITIONAL IMPLEMENTATION.**—Notwith-
5 standing any other provision of this section, a State edu-
6 cational agency, local educational agency, or school, as ap-
7 plicable, may defer the requirements of subsections (b)(7)
8 and (8) and subsections (c)(7) and (10) in any fiscal year
9 in which the amount appropriated under section 1002(a)
10 and section 611(i) of the Individuals with Disabilities
11 Education Act (42 U.S.C. 1400 et seq.) does not equal
12 or exceed the amount authorized under such section for
13 such fiscal year. For the purpose of determining the
14 amounts necessary in the preceding sentence (and only for
15 that purpose), starting with fiscal year 2008, the amount
16 authorized to be appropriated under such section 1002(a)
17 shall be \$2,500,000,000 more than such amount for the
18 preceding fiscal year.”.

19 **TITLE IV—NON-PUBLIC**
20 **SCHOOLS**

21 **SEC. 401. PARTICIPATION OF CHILDREN ENROLLED IN PRI-**
22 **VATE SCHOOLS.**

23 Section 1120 (20 U.S.C. 6320) is amended—

24 (1) in subsection (b)(1)(D) by inserting after
25 “academically assessed” the following: “(consistent
26 with subsection (f))”; and

1 (2) by adding at the end the following:

2 “(f) ACCOUNTABILITY FOR CHILDREN ENROLLED IN
3 PRIVATE SCHOOLS.—

4 “(1) IN GENERAL.—Notwithstanding section
5 9506(a), as specifically provided for in this sub-
6 section, children enrolled in private elementary
7 schools and secondary schools that receive edu-
8 cational services or other benefits under this part
9 shall participate in the assessments described under
10 section 1111(b)(3).

11 “(2) REPORTING.—

12 “(A) The State educational agency shall
13 report the results of the assessments taken by
14 students in private elementary and secondary
15 schools by grade and subject to—

16 “(i) the private elementary or sec-
17 ondary school that such students attend;
18 and

19 “(ii) the local educational agency in
20 which the such private school is geographi-
21 cally located in a manner and extent that
22 is consistent with the provisions of section
23 1111(i) and the function of the local edu-
24 cational agency under section 1120(b).

1 “(B) A private elementary or secondary
2 school shall report the assessment results re-
3 ceived from the State educational agency under
4 subparagraph (A) to the parents of students en-
5 rolled in such school who receive services under
6 this part in writing and in the native language
7 of the parent in a manner and extent consistent
8 with the provisions of subsection 1111(i).

9 “(3) EFFECTIVENESS OF SERVICES.—Based on
10 the results of the assessments described under para-
11 graph (1), a State educational agency may deter-
12 mine that such services received by children under
13 this section be ceased in schools when such results,
14 compared to a comparable cohort of children en-
15 rolled in a public school in the school district of the
16 local educational agency, are significantly lower and
17 such schools do not meet the definition of adequate
18 yearly progress established by the State in which the
19 private school is located for 3 or more consecutive
20 years.”.

1 **TITLE V—EFFECTIVE DATE AND**
2 **REGULATIONS**

3 **SEC. 501. EFFECTIVE DATE.**

4 Except as specifically provided in this Act, the
5 amendments made by this Act shall be effective upon the
6 first July 1 after the date of the enactment of this Act.

7 **SEC. 202. REGULATIONS.**

8 The Secretary of Education shall issue regulations as
9 necessary to implement the provisions of this Act not later
10 than 180 days after the date of the enactment of this Act.

○